

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**TRAXCELL TECHNOLOGIES, LLC.,)
Plaintiff,)
v.)
HUAWEI TECHNOLOGIES USA INC.,)
Defendant.)**

**Civil Action No. 2:17-cv-00042
JURY TRIAL DEMANDED**

EMERGENCY MOTION TO AMEND DOCKET CONTROL ORDER

Plaintiff Traxcell Technologies, LLC. respectfully requests that the Court modify the deadlines in the following manner:

- Extend deadline to Complete Mediation to January 30, 2019 from October 5, 2018.

Plaintiff makes the request to defer mediation until after the Markman hearing. Plaintiff does not believe mediation before Markman will advance the resolution of this case, but extending the mediation date past Markman may help resolve the matter. This Motion is filed as an Emergency Motion because the mediation is presently scheduled for September 24, 2018.

Plaintiff has specifically informed defendants and the mediator that it does not believe mediation prior to Markman will be beneficial, but the mediation is now scheduled to proceed on September 24, 2018. Plaintiff went as far as to specify that it saw a zero percent chance of success at mediation before receiving the results from Markman.

This request is not for purposes of delay but rather in the interests of justice and to advance the chances of a successful mediation.

Accordingly, Plaintiff respectfully request that the Court grant this motion and enter the Amended Docket Control Order submitted with this motion to increase the likelihood of a successful mediation.

The mediator has indicated he will only move the mediation date if Plaintiff is successful on this Motion.

Original Date	Proposed Date	Event
June 17, 2019	Unchanged	* Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Robert Schroeder
May 20, 2019	Unchanged	* Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Roy Payne
May 16, 2019	Unchanged	*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
May 14, 2019	Unchanged	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, and Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
May 7, 2019	Unchanged	*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov .
May 7, 2019	Unchanged	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
May 7, 2019	Unchanged	Serve Objections to Rebuttal Pretrial Disclosures
April 18, 2019	Unchanged	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
April 11, 2019	Unchanged	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof

Original Date	Proposed Date	Event
March 22, 2019	Unchanged	<p>*File Dispositive Motions or Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)</p> <p>No dispositive motion or motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.</p>
March 13, 2019	Unchanged	<p>*File Dispositive Motions</p> <p>No dispositive motion may be filed after this date without leave of the Court.</p> <p>Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u></p>
March 6, 2019	Unchanged	Deadline to Complete Expert Discovery
February 22, 2019	Unchanged	Serve Disclosures for Rebuttal Expert Witnesses (Non-Infringement)
January 25, 2019	Unchanged	Serve Disclosures for Rebuttal Expert Witnesses (Validity and Damages)
January 18, 2019	Unchanged	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
December 12, 2018	Unchanged	*Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Roy Payne
November 28, 2018	Unchanged	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
November 20, 2018	Unchanged	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
November 13, 2018	Unchanged	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
November 6, 2018	Unchanged	<p>Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)</p> <p>Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).</p>
October 19, 2018	Unchanged	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
October 5, 2018	January 30, 2019	<p>Deadline to Complete Mediation</p> <p>The parties are responsible for ensuring that a mediation report is filed no later than 5 days after the conclusion of mediation.</p>
October 2, 2018	Unchanged	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)

Dated: September 10, 2018

Respectfully submitted,

By: /s/ William P. Ramey, III
William P. Ramey, III
Ramey & Schwaller, LLP
Texas Bar No. 24027643
5020 Montrose Blvd., Suite 750
Houston, Texas 77006
(713) 426-3923 (telephone)
(832) 900-4941 (fax)
wramey@rameyfirm.com

John B. Thomas (Co-Counsel)
Hicks Thomas, LLP
Texas Bar No. 19856150
700 Louisiana Street, Suite 2000
Houston, Texas 77002
(713) 547-9100 (telephone)
(713) 547-9150 (fax)
jthomas@hicks-thomas.com

Attorneys for Traxcell Technologies LLC

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that from September 3, 2018 through September 10, 2018, counsel for Plaintiff repeatedly conferred with counsel for Huawei and Counsel for Nokia to move the mediation date until after the Markman Hearing but neither would agree to extend the date past November of 2018. Accordingly, the Motion is opposed.

/s/ William P. Ramey, III
William P. Ramey, III

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 10, 2018, the foregoing document was served on all counsel of record who have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ William P. Ramey, III
William P. Ramey, III